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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-eighth Session

# CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

## Concluding observations of the Committee on the Rights of the Child: Portugal

1. The Committee considered the second periodic report of Portugal (CRC/C/65/Add.11) at its 731st to 732nd meetings (see CRC/C/SR.731-732), held on 1 October 2001, and adopted at the 749th meeting (CRC/C/SR.749), held on 12 October 2001, the following concluding observations.

### A. Introduction

2. The Committee welcomes the submission of the State party's second periodic report and the very useful written replies to its list of issues (CRC/C/Q/POR/2). The Committee notes the very constructive dialogue it had with the cross-sectoral delegation of the State party.

### B. Positive factors

3. The Committee welcomes the substantial changes in various fields of legislation. Among others, the administration of juvenile justice now allows for children and young people between 12 and 16 in a situation of risk to be treated separately from those involved in criminal activities. In this context, the social welfare and security system has undergone changes that target children and parents at risk and living in poverty. The Committee also welcomes the establishment of a pre-school system, the raising of the minimum age of military service to 18 and adoption of the Law 15/98 increasing the protection of asylum-seekers.

4. The Committee notes that the State party has satisfied a number of international human rights instruments relevant to the rights of the child, including the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, the 1973 ILO Convention No. 138 concerning the Minimum Age for Admission to Employment and the 1999 ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

5. The Committee welcomes the progress registered by the State party in implementing the Convention through numerous comprehensive policies.

## C. Principal subjects of concern, suggestions and recommendations

### 1. General measures of implementation

**National strategy for the implementation of the Convention**

6. The Committee is concerned at the lack of a comprehensive national strategy on the implementation of the Convention.

7. **The Committee recommends that the State party:**

**(a) Develop a comprehensive national strategy for the implementation of the Convention;**

**(b) Set priorities and define a time frame for implementation;**

**(c) Define what human, financial and technical resources are necessary for the strategy's implementation and allocate them.**

**Coordination**

8. Noting the Committee's 1995 concluding observations (CRC/C/15/Add.45) on the State party's initial report (CRC/C/3/Add.30) and the existence of the National Commission for the Protection of Children and Youth at Risk and the District-Level Commissions, the Committee, is most concerned that there is still no structure for national coordination of the implementation of the Convention with regard to all children, as was recommended in 1995.

9. **The Committee again recommends that:**

**(a) The State party define a structure for the coordination of the implementation of the Convention for all children in the State party;**

**(b) Particular attention be given to coordination at the ministerial level;**

**(c) Efforts be made to continue to ensure the participation of civil society, including NGOs, in the implementation of the Convention.**

**Allocation of resources**

10. The Committee notes a trend of increasing resources being allocated to the education, health and social welfare sectors and the significant participation of civil society, including NGOs, in the provision of such services. However, the Committee remains concerned that there is no information indicating that priority is given to the implementation of children's social rights in the budgets of the State party at national, regional and local levels.

11. **With a view to achieving full application of article 4 and to eradicate poverty, the Committee urges the State party to consider ways in which respect can be guaranteed for the rights of all children including children from disadvantaged backgrounds and from isolated communities, in particular in the sectors of health, education and other social welfare services and in conformity with article 2.**

**Data collection**

12. The Committee recognizes that the State party collects useful data in the fields of, inter alia, education and health, but notes:

(a) That in many areas the data collected do not cover all ages of children; for example, data with regard to children with disabilities are provided only up to age 15;

(b) A lack of, or insufficient, data with regard to some areas of the Convention, for example, data on abortions, substance abuse and child abuse and neglect, including sexual abuse and exploitation;

(c) That the data collected are used to a sufficient degree in developing, strengthening and monitoring policies and programmes for the implementation of the Convention.

13. **The Committee recommends that the State party:**

**(a) Further develop its existing data collection mechanisms with a view to creating an effective system for collecting data covering all areas of relevance to the Convention;**

**(b) Ensure that data collection covers the entire and specific period of childhood up to age 18, and all areas relating to the rights under the Convention;**

**(c) Ensure that data are disaggregated including, as relevant, by gender, age, minority group and rural or urban residence;**

**(d) Strengthen the use of data to improve the development, implementation and monitoring of programmes and policies to implement the Convention.**

**International cooperation**

14. The Committee notes that the State party's contribution to international cooperation was 0.26 per cent of GNP in 1999, and that the United Nations recommended target for development aid by States is 0.7 per cent of GNP.

15. **The Committee recommends that the State party progressively increase its contributions to international cooperation in accordance with United Nations targets, giving particular attention to children's rights.**

**Cooperation with civil society**

16. The Committee notes the State party's close cooperation with civil society with regard to children's rights.

17. **The Committee encourages the State party:**

**(a) To continue and strengthen its positive cooperation with civil society, including NGOs, in the context of the implementation of the Convention;**

**(b) To encourage NGOs to adopt a rights-based approach to children.**

## 2. General principles

18. The Committee welcomes the State party's holistic approach to implementation of the general principles with regard to children's rights.

**Non-discrimination**

19. The Committee notes the numerous efforts initiated by the State party to address discrimination, including the development of mechanisms, the conduct of surveys and the implementation of policies. The Committee is concerned, however, with regard to de facto discrimination in the context of children and families living in poverty in less developed rural and urban areas and against the Roma and their children in particular.

20. **The Committee recommends that the State party continue and strengthen its efforts to ensure equal respect for the right to non-discrimination of all children, giving particular attention to children and their families living in poverty, in particular Roma children and children living in less developed areas.**

21. The Committee requests that specific information be included in the next periodic report, on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and taking account of the Committee's general comment No. 1 on article 29 (1) of the Convention on the aims of education.

**Respect for the opinions of the child and child participation**

22. The Committee notes the State party's ongoing efforts to ensure child participation and welcomes the fact that the age at which a child's opinions must be heard in administrative and judicial proceedings affecting the child has been defined under relevant legislation and taken into consideration in accordance with the age and maturity of the child. The Committee notes, in addition, ongoing efforts to address concerns regarding cultural conceptions of the value of a child's opinion within schools and society (see paragraph 123 of the State party's report) and in decision-making at national and local levels in matters affecting children.

23. **In the light of article 12, the Committee encourages the State party to continue to enhance child participation and respect for the opinions of the child, including at national and local levels and in accordance with the age and maturity of the child.**

**Survival and development**

24. The Committee joins the State party in expressing concern at the extremely high number of accidents, including road accidents, of which children are victims.

25. **The Committee recommends that the State party, taking into account the conclusions of its Working Group for the Prevention of Accidents, promote initiatives with a view to diminishing the number and consequences of accidents involving children through, inter alia, legislation, standardization of toys and child care articles and the training of relevant professionals and of families with children in the prevention of accidents.**

## 3. Civil rights and freedoms

**Corporal punishment**

26. Noting its 1995 concluding observations, the Committee is concerned that corporal punishment continues to be practised within the family, there is a lack of legislation prohibiting such punishment, and that insufficient measures have been adopted to prevent corporal punishment in this context.

27. **The Committee recommends that the State party:**

**(a) Adopt legislation prohibiting corporal punishment in the family and in any other contexts not covered by existing legislation;**

**(b) Develop mechanisms to end the practice of corporal punishment, including the use of information campaigns targeting parents, teachers and children;**

**(c) Promote positive, participatory, non-violent forms of discipline as an alternative to corporal punishment at all levels of society;**

**(d) Develop mandatory reporting systems for professionals working with children who detect the use of corporal punishment in the family.**

## 4. Family environment and alternative care

### Family environment

28. The Committee welcomes the State party's decision to develop a global plan on family policy, including changes to social welfare and social security and means-tested coverage with particular provisions for families and children and including those persons not paying contributions to the social security system. The Committee also welcomes the definition, in the National Plan of Action against Poverty and Social Exclusion of child protection priorities including the provision of support measures for families in order to enable them to fulfil their parental responsibilities. Nevertheless, the Committee remains concerned:

(a) That poverty, poor housing, unemployment, non-contractual work and the high incidence of alcoholism among parents in many families have a negative impact on respect for children's rights;

(b) At the lack of sufficient free pre-school care services, complicating an already difficult situation for poor families.

29. **The Committee recommends that the State party make every effort, to the maximum extent of available resources, to support families in their child-rearing responsibilities and to ensure the protection of the rights of all children in the context of the family environment.**

### Abuse and neglect, including sexual abuse and sexual exploitation

30. The Committee notes the State party's recent initiative to develop mechanisms allowing doctors, teachers and other relevant professionals to lodge complaints of alleged sexual abuse or exploitation of children (Law 99 of 25 August 2001).

31. **The Committee recommends that the State party:**

**(a) Strengthen the monitoring of and collection of data on cases of abuse and neglect of children;**

**(b) Make it mandatory for professionals to report to an appropriate body cases of abuse, including sexual abuse, and ensure the provision of appropriate training and adequate protection for professionals called upon to make such reports;**

**(c) Ensure the provision of rehabilitation assistance to child victims of abuse.**

**Alternative care**

32. The Committee is concerned:

(a) At the continuing emphasis placed on the institutionalization of children deprived of a family environment (see, in particular, paragraph 89 of the State party's report);

(b) That review of the placement of children in alternative care is inadequate (see paragraph 206 of the State Party's report).

33. **The Committee recommends that the State party:**

**(a) Place emphasis on foster care, including by providing adequate financial support and advice to foster families;**

**(b) Develop deinstitutionalization policies and continue its efforts to reduce the incidence of institutionalization of children;**

**(c) Strengthen its review of the placement of children in alternative care, ensuring that it is conducted regularly and frequently and takes into consideration the views and best interests of the child.**

## 5. Basic health and welfare

34. The Committee welcomes the progress made in recent years in reducing the child mortality rate and also welcomes the combining, within the State party's primary health care, of private and public health care provision at a very small charge, and the hospital services offered at two levels. The Committee is concerned, however, that:

(a) Infant mortality, under-5 mortality and child tuberculosis rates remain higher than the regional average, particularly in some northern rural areas, and are also too high in the Azores;

(b) The public health care system, including mental health care services, in the State party requires strengthening and that there is insufficient access to primary health care facilities in some parts of the country;

(c) The State party's health expenditure is notably lower that that of other countries in the region and that this negatively affects respect for children's right to health care.

35. **The Committee recommends that the State party:**

**(a) Increase investment in public health care facilities, including investments by civil society;**

**(b) Ensure the equal access of all children to the highest attainable standard of health care in all areas of the country.**

**Children with disabilities**

36. The Committee welcomes the State party's emphasis on the integration of children with disabilities into mainstream education. However, the Committee remains concerned that resources for the special education of children with disabilities are unevenly distributed across the country, with a particular concentration in Lisbon limiting the access of some children to these facilities.

37. **The Committee recommends that the State party:**

**(a) Continue and strengthen its efforts to ensure the integration of children with disabilities into regular schools;**

**(b) Review the distribution of resources for the special education of children with disabilities, with a view to ensuring that all children and their families in need of such services have easy access to them.**

**Adolescent health**

38. Noting the establishment of a network functioning in cooperation with the Ministries of Health and Education toward education on adolescent health, the Committee remains concerned that the incidence of teenage pregnancies remains high and at the absence of data on abortions.

39. **The Committee recommends that the State party:**

**(a) Take steps to address adolescent health concerns, including teenage pregnancy and sexually transmitted diseases, through, inter alia, sex education, including about birth control measures such as the use of condoms;**

**(b) Strengthen its mental health and counselling services, ensuring that these are accessible and sensitive to adolescents.**

**HIV/AIDS**

40. Noting the launching of the State party's Health Education Programme to address, inter alia, HIV/AIDS, the Committee remains concerned at the incidence of HIV transmission, including mother-to-child transmission, and at the high incidence of AIDS (10.4 cases per 100,000) in the State party.

41. **The Committee recommends that the State party:**

**(a) Continue to strengthen its HIV/AIDS prevention programmes, including safe sex education programmes;**

**(b) Increase interventions at primary health-care level aimed at limiting mother-to-child transmission of HIV.**

### 6. Education, leisure and cultural activities

42. The Committee notes the significant progress made in increasing the number of children completing secondary education and the implementation of the Programme of Extension and Development of Pre-Primary Education and the "social school action programme". The Committee remains concerned at:

(a) The low levels of investment in education, including pre-school education;

(b) The low enrolment in pre-school education.

(c) The relatively high drop-out and repetition rates in primary and secondary schools, with only 32 per cent of children completing primary school without having repeated a class and a drop-out rate of 22.9 per cent at the ninth grade level;

(d) The limited use of information technology in schools;

(e) The relatively low numbers of children going on to tertiary education from secondary school, with a sharp disparity between males (42 per cent) and females (57 per cent).

43. **The Committee recommends that the State party:**

**(a) Increase its investment in education;**

**(b) Study the causes of high drop-out and repetition rates;**

**(c) Introduce policies to address the causes of low enrolment in pre-school education;**

**(d) Continue its efforts to increase the number of children completing secondary education;**

**(e) Take steps to reduce drop-out rates and to implement its planned reform of secondary education;**

**(f) Increase the use of information technology in schools;**

**(g) Take steps to raise the number of persons going on to higher education, giving due attention to reducing gender disparities;**

**(h) Continue and strengthen efforts to ensure that all teachers benefit from professional training;**

**(i) Provide particular support to low-income families with a view to increasing the enrolment levels of their children in educational facilities;**

**(j) Strengthen efforts towards the implementation of the human rights plan of action, including children's right to education, in the light of the Committee's general comment No. 1 on the aims of education.**

**Leisure**

44. The Committee notes the programmes "Support to Youth Associations" and "Initiative" and the promotion of sports activities in schools. The Committee expresses concern that:

(a) Sports activities receive insufficient financial support;

(b) The number of children taking part in sports activities in the State party is much lower than in other countries in the region, particularly for adolescents.

45. **The Committee recommends that the State party:**

**(a) Increase its investments in physical activities for students in schools;**

**(b) Take additional steps to promote and support sports and other leisure activities for children, giving particular attention to children living outside the main urban regions.**

## 7. Special protection measures

**Refugees**

46. Noting the assistance provided by the State party to refugees, the Committee remains concerned that:

(a) There is no specific refugee status determination procedure for minor asylum-seekers;

(b) Minors do not always have access to psychological care when needed.

47. **The Committee recommends that the State party:**

**(a) Develop a refugee status determination procedure for minor asylum-seekers;**

**(b) Introduce mechanisms providing minors with access to psychological care;**

**(c) Ensure full implementation of all the provisions of the Asylum Law 15/98.**

**Street children**

48. In the light of its 1995 concluding observations, the Committee remains concerned at the number of street children in the State party's main cities.

49. **The Committee recommends that the State party:**

**(a) Study the causes of children living on the street and the scope of the problem;**

**(b) Develop and implement a comprehensive policy to address the causes of children living on the streets, including through assistance to families and efforts to address concerns with regard to adequate housing and access to education;**

**(c) Strengthen its assistance to children currently living on the street, including with regard to health and education services, food and housing, drug abuse treatment and counselling;**

**(d) Ensure that street children are informed of their rights and strengthen children's participation in achieving respect for them.**

**Substance abuse**

50. The Committee notes the "National Strategy in the Fight Against Drugs", but remains concerned at the lack of data on substance and alcohol abuse and smoking.

51. **The Committee recommends that the State party:**

**(a) Continue its efforts to prevent substance abuse by children, including through the prohibition of the sale of such substances to children and through addressing factors leading to vulnerability;**

**(b) Study the interrelationship between accidents and substance abuse and take prevention and law enforcement measures in this regard;**

**(c) Pursue its efforts to use information campaigns to alert children and adults to the risks of substance abuse, and that the child victims of substance abuse be provided with appropriate care, rehabilitation and assistance.**

**Juvenile justice**

52. The Committee welcomes the State party's implementation of the Committee's 1995 recommendations with regard to reform of the juvenile justice system and the social welfare and security systems. However, the Committee remains concerned that:

(a) Children over 16 may not receive the full benefit of relevant protections in the context of juvenile justice proceedings for criminal acts (see, for example, paragraphs 473 and 501 of the State party's report);

(b) Juvenile justice reforms have not been fully implemented;

(c) Data are insufficient with regard to the placement of children with other families or in institutions.

53. **The Committee recommends that the State party:**

**(a) Continue its efforts to fully implement juvenile justice reform;**

**(b) Ensure that the reform process is conducted with a view to ensuring, for all children, full compliance with international standards, in particular articles 37, 40 and 39 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines);**

**(c) Ensure, in particular, that children aged 16 and over benefit from full protection of their rights in the context of juvenile justice proceedings.**

**Minorities**

54. Noting the State party's policies targeting the specific needs of children of some minorities, the Committee remains concerned at the difficult social situation of Roma children and their insufficient access to the education system.

55. **The Committee strongly urges the State party to:**

**(a) To take measures to improve and implement more effectively existing legislation and policies with regard to ensuring protection of the rights of all children of minority groups, giving particular attention to the situation of Roma children;**

**(b) Continue to ensure the participation of minorities, including children, in implementing these policies.**

## 8. Optional Protocols

56. The Committee notes the State party's intention, as declared during the dialogue, to proceed with ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and to adopt relevant domestic legislation.

57. **The Committee recommends that the State party also proceed with the ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts.**

## 9. Dissemination of documents

58. Noting the limited dissemination of the State party's initial report, the Committee hopes that the State party's second periodic report will be widely disseminated within the State party.

59. **In light of article 44, paragraph 6, of the Convention, the Committee recommends that the second periodic report and written replies to the list of questions submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within all levels of administration of the State party and the general public, including concerned non-governmental organizations.**

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